

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

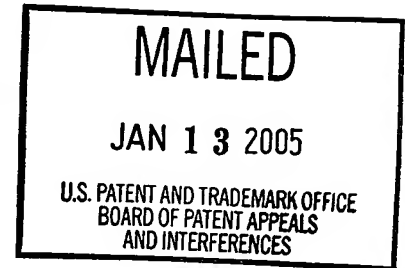
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte QI WANG AND SANDOR NAGY

Application No. 10/065,636

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER



This application was received at the Board of Patent Appeals and Interferences on November 10, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below.

The Examiner's Answer, mailed August 11, 2004, needs to be clarified. Under item (6) Issues, the rejection is identified as Claims 21, 22, 26, 28, 29, 31 & 33 under 103(a) over Jaeger. However, under item (10) Grounds of Rejection, only claims 31, 38 and 39 are argued. If it was the examiner's intent to include the above rejection to Claims 21, 22, 26, 28, 29 and 33, this would be considered a new ground of rejection as only claims 31, 38 and 39 were rejected under 103(a) in the February 17, 2004 final rejection. Note that claims 21, 22, 26, 28, 29 and 33 were rejected under 102(b) in the final rejection. In accordance with Patent Office policy,

any new ground of rejection made in an Examiner's Answer must be approved by a Technology Center Director or designee and prominently identified (e.g., a separate heading with all capitalized letters) in the Grounds of Rejection section.

Accordingly, it is

ORDERED that

1. The Examiner's Answer dated August 11, 2004, be vacated;
2. A supplemental examiner's answer clarifying the examiner's intention regarding the ground(s) of rejection(s);
3. A copy of the supplemental examiner's answer be mailed providing appellant the appropriate time period for response;
4. The application be maintained in the technology center awaiting a potential reply from appellant; and
5. For any further action as deemed appropriate.

Application No. 09/818,686

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e. abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES


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Application No. 09/818,686

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